

Responses to July 27, 2007, ESQ Article

Pro se litigants should be encouraged to use appropriate forms. However, to require them to use a form may deprive them of their right to state their own claim, which may not be helpful to the average pro se litigant, is their right.

7/29/07 I have briefly reviewed the Proposed Rules 4-1.2(c); 88.09; and 55.03. I agree with the provisions of 4-1.2(c). Many times, particularly in domestic cases, people want advice about a specific issue, such as a separation agreement in a divorce. The limiting agreement in the Rule allows a lawyer to give advice without taking on representation of the entire matter. In a domestic case, limited advice about a separation agreement could be given without participating in the discovery. I have concerns about Rule 55.03. I will not assist someone with a form that they are going to file with the court that indicates I assisted them. If my name is on a pleading in any capacity I will file it. It would be impossible to monitor the forms a lawyer "assisted as to form" and what the final product resembles when it is actually filed. Then the additional issue becomes the judges and opposing counsel feel compelled to keep the "assisting attorney" up to date on the case progress. If there is a problem with the pleading or form, the "assisting lawyer" will be compelled to help remedy the problem. Rule 55.03 would override Rule 4-1.2(c) and I would not offer limited advice to pro se litigants if any document was involved that required my name. I believe Rule 88.09 is a good idea in theory but I think pro se litigants are going to see it as just another hoop they have to jump through if they do not hire an attorney. In domestic cases, they already have to go to a Parenting Class and in many counties they have to go to a Mediation Class. If they have to take off work another day to attend a Pro Se Class many will just give up on the process. I know the committee has spent a lot of time on the recommendations and I appreciate their work. My comments are just my initial reaction to the proposals without having spent the time and study as that of the committee.

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